



उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

14

मामला क्रमांक

G.A. 541/

सन् 200 /

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	APPELLANT: (In Custody) RESPONDENT: {Appeal under Section 374 (2) of the Code of Criminal Procedure} Division Bench: Hon'ble Mr. L.C. Bhadoo and Hon'ble Mr. Dharendra Mishra, JJ. 19-7-2007 Mr. S.K. Dadsena, counsel for the appellant. Mr. Akhil Mishra, Panel Lawyer for the State/respondent. Oral judgment dictated on Dais. L.C. Bhadoo, J: - This appeal is directed against the judgment of conviction and order of sentence dated 23-4-2001, passed by the 5th Additional Sessions Judge, Durg in Sessions Trial No.314/2000, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the I.P.C. for committing the murder of his father Poonaram Lodhi, sentenced him to undergo imprisonment for life and pay a fine of Rs.5,000/-, in default of payment of fine to further undergo R.I. for two years.	Rohit Kumar, S/o Punaram Lodhi, aged about 33 years, R/o Ghasidas Nagar, Police Station: Jamul, Tehsil & Distt.: Durg (C.G.) - Versus - State of Chhattisgarh, Through Police Station: Jamul, Distt.: Durg (C.G.)

मामला क्रमांक

G.A. 541/

सन् 200/

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Case of the prosecution is that on 8-8-2000 Ajayram Sahu (PW-1) returned from school at about 5 p.m. thereafter, he went for evening walk, he returned to his house within half an hour and saw that accused Rohit Kumar was attacking his father Poonaram Lodhi (since deceased) with a Lathi. Poonaram Lodhi was a paralytic person, therefore, he used to walk with the help of a stick, accused Rohit Kumar snatched that stick from Poonaram Lodhi, that is why Poonaram Lodhi was not able to stand up and he was lying on the ground. In the mean time, Ajayram Sahu's friend namely, Vinod Kumar came, therefore, Ajayram Sahu along with Vinod Kumar separated Rohit Kumar. After pushing them, the accused again brought another Lathi and started attacking Poonaram Lodhi with the Lathi on his head, mouth and other parts of the body. The accused was saying that "today I will not leave alive Poonaram, I will commit his murder". He was also saying that what his father as done for him. Thereafter, again Ajayram Sahu & Vinod Kumar separated the accused, they snatched the Lathi and took him towards the temple. But the accused again came and started dragging his father, he brought his father in the street by dragging him. Villagers came and intervened, thereafter, the Police reached on the spot and arrested the accused. People of the vicinity took injured Poonaram to the Police Station and the matter was reported by Ajayram Sahu on which the first information report Ex.P-1 was registered. The Investigating Officer left for the scene of occurrence. The Halka Patwari prepared site plan Ex.P-2. The Investigating Officer seized plain soil, blood stained soil, one Seesam club and one torn blood stained shirt from the place of occurrence under Ex.P-3. One Lathi was seized form accused	

मामला क्रमांक

G.A. 541

सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Rohit Kumar under Ex.P-4. One terricot full pant stained with blood and one full shirt stained with blood of accused Rohit Kumar were seized under Ex.P-5. One bamboo stick was seized under Ex.P-6 from Ajayram Sahu. Blood stained lungi of Poonaram Lodhi was seized under Ex.P-7. Site plan Ex.P-8 was prepared by the Investigating Officer. After giving notice Ex.P-9 to the Panchas, inquest Ex.P-10 was prepared on the body of Poonaram Lodhi. Poonaram Lodhi was hospitalized where Medical Officer Dr. P. Balkishore (PW-6) examined the injuries and prepared injury report Ex.P-14. Post-mortem on the body of Poonaram Lodhi was conducted by Dr. P. Balkishore, he prepared report Ex.P-15 and opined that cause of death was shock and haemorrhage due to ante-mortem injuries. After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate, First Class, Durg, who in turn committed the case to the Sessions Judge, Durg, from where learned 5th Additional Sessions Judge, Durg received the case on transfer for trial. Prosecution in order to establish charge against the accused examined 11 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence. Learned Additional Sessions Judge after hearing counsel for respective parties, convicted and sentenced the accused as aforementioned. We have heard Mr. S.K. Dadsena, learned counsel for the appellant and Mr. Akhil Mishra, learned Panel Lawyer on behalf of the State/ respondent.	

मामला क्रमांक G.A. 541 / सन् 200 (

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Mr. Dadsena has not disputed the homicidal death of Poonaram Lodhi. Moreover, Ajayram Sahu (PW-1), eyewitness, has stated in his evidence that on the fateful day when he returned from school, at about 5.30 p.m. he saw that the accused was attacking his father with Lathi, he snatched the Lathi, the accused again brought another Lathi and started attacking his father, he along with Vinod Kumar separated him, but again second time, the accused came and dragged his father in the street. Dr. P. Balkishore (PW-6) has stated in his evidence that he conducted post-mortem on the body of Poonaram, there were as many as seven lacerated wounds and two contusions on his body. Lacerated wounds on forehead in the size of 5 cms. x ½ cm. x ½ cm., 2 cms. x ½ cm. x ½ cm., on left eye in the size of ½ cm. x ½ cm., on right cheek in the size of 4 cms. x ½ cm. x ½ cm., above the right eye in the size of 2 cms. x ½ cm. x ½ cm., on the nose in the size of 2 cms. x ½ cm. x ½ cm., right hand bone was fractured from middle, lacerated wound on the base of right hand at the root of thumb in the size of 2 cms. x ½ cm. x ½ cm., contusion in the lower part of left hand, and contusion on the right elbow. Nasal bone was fractured and there were compound fractures on right hand bone & facial bone. His reports are Exs.P-14 & 15. Injuries were ante-mortem in nature. Cause of death of Poonaram was shock and haemorrhage. Therefore, from the above ocular and medical evidence, it is established that the death of Poonaram was homicidal in nature. As far as involvement of the accused in the crime in question is concerned, Mr. Dadsena, learned counsel for the appellant, argued that both the eyewitnesses namely, Ajayram Sahu (PW-1) & Vinod Kumar (PW-9)	

मामला क्रमांक

G. A. 541/

सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक या आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	have not supported the prosecution case. Even though, Umendra (PW-2) in examination-in-chief has stated that he saw the accused attacking the deceased, but in cross-examination he has stated that he has not seen the Marpeet as at that time, he was inside his house. There is no other material connecting the accused with the crime in question. On the other hand, learned Panel Lawyer supported the judgment of the trial Court. It is true that Umendra (PW-2) has stated in his examination-in-chief that the accused attacked his father with Lathi, but in cross-examination para 4, he has stated that he did not see the accused attacking his father. Vinod Kumar (PW-9) has turned hostile. He has not supported the prosecution case. Ajayram Sahu (PW-1), who in fact saw the accused attacking his father, has stated in his evidence that he is a student of Class-XII, he returned from school at about 5 p.m., thereafter, he went for stroll, when he returned, he saw that the accused was attacking his father with Lathi. As Poonaram was a paralytic person, he used to stand with the help of Lathi. Poonaram was lying on the ground, when he separated the accused, he again brought another Lathi and started attacking his father. Thereafter, he along with Vinod Kumar separated him, but he again came and dragged his father to the street. Thereafter, villagers came and separated the accused. He lodged report Ex.P-1. In cross-examination, he has stated that before this incident, he never saw the accused attacking anybody. He does not know the cause of beating as to why the accused was attacking his father. He does not remember date and month of the incident. It is incorrect to say that he does not anything about the Marpeet.	

मामला क्रमांक

G. A. 541/

सन् 2007

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	From the above evidence, it cannot be said that this witness (PW-2) has not supported the prosecution case. In clear words he said that the accused was attacking his father not only once, when he separated, the accused again came and brought another Lathi and started attacking his father. The evidence of this witness stands corroborated by the fact that the Lathi which he snatched from the accused was seized from him by the Investigating Officer under Ex P-6 and another Lathi was seized from the accused. Seizure memo of shirt & pant of the accused shows that there were blood stains on those clothes. There were blood stains on the clothes of the deceased. Moreover, in cross-examination of Ajayram Sahu (PW-1), defence has not been able to elicit any circumstance or any fact which discredits his evidence. He is a neighbour of the accused and a student of Class-XII, there was no reason for him to implicate the accused falsely that too in a case of murder of his father. Therefore, from the evidence of Ajayram Sahu (PW-1) and recoveries of blood stained clothes & Lathis, it is established that the accused was the author of the crime in question. In spite of the efforts made by Ajayram Sahu (PW-1) & Vinod Kumar (PW-9), the accused attacked his father and he did not stop. When Ajayram Sahu separated, the accused again brought another Lathi and attacked his father. Thereafter, Ajayram Sahu & Vinod Kumar again separated the accused and then, he came and dragged his father to the street. The manner in which the accused attacked his father and the nature of injuries sustained by the deceased show the determination with which the accused attacked his father saying that his father has not done anything for him, therefore, he will not leave him alive. On account of	

मामला क्रमांक G.A. 541 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Soma	the merciless beating given by the accused, facial bone and nasal bone of the deceased were fractured. Moreover the deceased was a helpless person being a paralytic patient, he was lying on the ground and the accused gave merciless beating. In the circumstances, we do not find any substance in this appeal, same is liable to be dismissed and it is hereby dismissed. Sd/- L.C.BHADOO Judge	Sd/- DHIRENDRA MISHRA Judge